

STATE OF SOUTH CAROLINA) BEFORE THE STATE ETHICS COMMISSION
COUNTY OF RICHLAND)

In the Matter of:)
COMPLAINT C2011-078)

Maurice G. Washington,)
Respondent,)

Richard G. Thomas,)
Complainant.)
_____)

DECISION AND ORDER

STATE ETHICS
COMMISSION

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This matter comes before the State Ethics Commission by virtue of a complaint filed by the Complainant, Richard G. Thomas, on May 6, 2011. On July 20, 2011, pursuant to S.C. Code Ann. §8-13-320(10)(i)(Supp. 2010), the State Ethics Commission reviewed for probable cause the above-captioned complaint charging Respondent, Maurice G. Washington, with a violation of Section 2-17-20.

Present at the meeting were Commission Members E. Kay Biermann-Brohl, Vice Chair, Edward E. Duryea, Richard H. Fitzgerald, JB Holeman, Jonathan H. Burnett, Priscilla L. Tanner, and G. Carlton Manley. Also present were the Commission's Executive Director, Herbert R. Hayden, Jr., and his immediate staff.

The following allegations were considered:

On May 6, 2011 the State Ethics Commission received a complaint filed by Richard G. Thomas of Johns Island against the Respondent, Maurice G. Washington, of Charleston. The complaint alleged that Respondent Washington has been contractually engaged by Kiawah Island Community Association (KICA) with public funds provided by the Town of Kiawah Island, Seabrook Island and private funds by other groups to promote a road concept for Johns Island known as the Sea Island Greenway. This

contract is for a period of five months with compensation set at \$100,000. Respondent's work is being monitored and directed by elected officials of the Towns of Kiawah Island and Seabrook Island. Public funds were provided to KICA by both towns and KICA then hired Mr. Washington. It has been suggested that Respondent's efforts were to include approaching and influencing elected state officials and staff of state agencies to promote this road concept. Complainant asserts that the activity of Respondent falls within the definitions of lobbying, lobbyist and lobbyist principal as presented by state statute.

Respondent has not registered as a lobbyist.

STATEMENT OF FACTS

Having carefully reviewed the evidence presented, the Commission finds as fact:

1. The Respondent, Maurice Washington, was employed as a consultant for Kiawah Island Community Association (KICA).
2. State Senator Robert Ford from Charleston County had one conversation with Respondent at a luncheon in Seabrook Island wherein the subject of the Sea Island Greenway was discussed along with other constituents being present. According to Senator Ford Respondent did not ask him to take any action in the State Senate to assist or promote the Greenway project.
3. Respondent denied meeting with any state agency staff members or state elected officials to secure their support for funding the Sea Island Greenway project. He did request that Senator Ford be present to introduce him to residents of Johns Island.
4. Respondent's consulting agreement with KICA contained no language to indicate that the Respondent was to engage in lobbying activity.

5. The definition of lobbying contains the terms “public officials” and “public employees”. Both terms are defined in Section 2-17-10 and for the purposes of the lobbying law mean officials and employees of the state. Registration is not required to lobby at any level of government other than the state.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Commission concludes, as a matter of law:

1. The Respondent, Maurice G. Washington, was a person as defined by Section 2-17-10(15).
2. The State Ethics Commission has personal and subject matter jurisdiction.
3. Section 2-17-10(12) defines lobbying as the promotion or opposing through direct communication covered legislation or covered state agency action.
4. Section 2-17-10(13) defines lobbyist to mean any person who is employed, appointed, or retained, with or without compensation, by another person to influence by direct communication with public officials or public employees: (i) the action or vote of any member of the General Assembly, the Governor, the Lieutenant Governor, or any other statewide constitutional officer concerning any legislation; (ii) the vote of any public official on any state agency, board, or commission concerning any covered agency actions; or (iii) the action of the Governor or any member of his executive staff concerning any covered gubernatorial actions. as the promotion or opposing through direct communication covered legislation or covered state agency action.

5. Section 2-17-10(14) defines lobbyist's principal to mean the person on whose behalf and for whose benefit the lobbyist engages in lobbying and who directly employs, appoints, or retains a lobbyist to engage in lobbying. However, a lobbyist's principal does not include a person who belongs to an association or organization that employs a lobbyist, nor an employee, officer, or shareholder of a person who employs a lobbyist. If a membership association or organization is a lobbyist's principal, the association or organization must register and report under the provisions of this chapter. A person is considered a lobbyist's principal only as to the public office or public body to which he has authorized, pursuant to this chapter, a lobbyist to engage in lobbying.

DECISION

Applying the definition of "lobbying" to the facts in this case the Commission finds that there is insufficient evidence to indicate that Respondent was engaged in lobbying activity. Both Respondent and Senator Ford stated that Respondent did not request that Senator Ford take legislative action in support of the Greenway project. Based upon the lack of evidence presented, the State Ethics Commission has determined that there is not probable cause to indicate that the Respondent, Maurice G. Washington, violated Section 2-17-20. The Commission has therefore dismissed the charges in accordance with Section 8-13-320(10)(i) and the rules and regulations promulgated thereunder.

IT IS SO ORDERED THIS 5th DAY OF August, 2011.

STATE ETHICS COMMISSION

E. Kay Bismann Bohl

COLUMBIA, SOUTH CAROLINA

E. KAY BIERMANN BROHL
VICE CHAIR